



Kay-Dee Engineering Plastics
Unit 2 Jubilee Court
Thackley Old Road Shipley
West Yorkshire BD18 1QF
United Kingdom

T: +44 (0)1274 590824
F: +44 (0)1274 531409
E: info@kaylan.co.uk
W: www.kaylan.co.uk

Terms and Conditions

1. DEFINITIONS In these conditions the following words have the following meanings unless the context requires otherwise. "Kay-Dee" Kay-Dee Engineering (Plastics) Limited, Unit 2, Jubilee Court, Thackley Old Road, Shipley, West Yorkshire, BD18 1QF; "Contract" any contract between Kay-Dee and the Customer incorporating these conditions for the sale of Products; "Customer" the person whose order for Products is accepted by Kay-Dee; "Force Majeure" any circumstances beyond the reasonable control of Kay-Dee affecting its ability to perform its obligations under the Contract; "Liability" liability for any and all damages, claims, proceedings, actions, awards, expenses, costs and any other losses and/or liabilities; "Products" any components manufactured and supplied by Kay-Dee to the Customer.

2. BASIS OF CONTRACT 2.1 These conditions shall govern the agreement between Kay-Dee and the Customer to the exclusion of any other terms or conditions and supersede all previous terms and conditions to the Customer. 2.2 Orders placed by the Customer leading to a contract which is not expressed to be subject to these conditions shall still be subject to them. 2.3 No variation to these conditions shall be binding on Kay-Dee unless agreed in writing by an authorised representative of Kay-Dee. 2.4 Kay-Dee's employees, sub-contractors and/or agents are not authorised to make any oral representations or warranties concerning the Products unless confirmed by Kay-Dee in writing. 2.5 The Customer shall not rely on any representation and/or warranty not made in accordance with these conditions.

3. ORDERS AND CONTRACT 3.1 "Quotations" are not binding (unless stated otherwise) and shall be available for acceptance for 60 days. They may be withdrawn by Kay-Dee at any time during this period by oral or written notice. 3.2 Kay-Dee reserves the right to refuse to accept any orders placed for Products. 3.3 The Customer shall be responsible for the accuracy of an order and for giving Kay-Dee all necessary information. 3.4 The Contract shall come into effect on Kay-Dee's acceptance of the Customer's order in writing. 3.5 If the Customer cancels this Contract for any reason it shall have no further recourse against Kay-Dee under this Contract.

4. SAMPLES 4.1 The production of any samples or test work for the Customer shall be carried out at the cost of Kay-Dee, on a trial and error basis, unless large quantities or sizes of samples are required by the Customer and in such circumstances Kay-Dee reserves the right to charge the Customer for the costs incurred. 4.2 If the Customer approves any sample produced by Kay-Dee then the Customer shall have no claim in respect of, nor any right to reject, any Products provided the Products in question are of the same description, specification, quality and fitness for purpose as the sample.



5. DELIVERY 5.1 Dates for delivery and/or performance are estimates only and are not guaranteed. Time is not of the essence. They are also subject to any matter beyond Kay-Dee's reasonable control. 5.2 Kay-Dee will use its reasonable endeavours to ensure delivery on the dates specified. 5.3 Where Products are to be delivered in instalments, each delivery shall constitute a separate and distinct contract and failure by Kay-Dee to deliver, or any claim by the Customer in respect of, any instalment shall not entitle the Customer to repudiate and/or terminate this Contract as a whole. 5.4 The Customer shall have no right to reject Products or rescind for late delivery unless the due date for delivery has passed and the Customer has served on Kay-Dee a written notice requiring Kay-Dee to perform the Contract in no less than 14 days and the notice has not been complied with. 5.5 Kay-Dee shall not be required to fulfil orders in the sequence in which they are placed. 5.6 Delivery will be made between 9.00am and 5.30pm on working days and the Customer shall be responsible at its own costs for unloading arrangements. 5.7 The Customer shall procure during normal working hours that Kay-Dee's nominated carrier has free right of access to the delivery address for delivery of the Products. 5.8 If the Customer refuses to take delivery then Kay-Dee shall be entitled to withhold delivery of any other Products and to treat this Contract as repudiated. 5.9 If the parties agree that the Products are to be collected from Kay-Dee's premises then the Customer shall collect them within 3 working days of notification for collection and if the Customer fails to collect them within the specified period Kay-Dee may despatch the Products to the Customer at the Customer's expense and risk and/or store the Products at the Customer's expense and risk until despatch and/or collection.

6. POSTPONEMENT 6.1 Kay-Dee may comply with reasonable requests by the Customer for postponement of delivery but shall be under no obligation to do so. 6.2 Where delivery of the Products is postponed at the Customer's request then the Customer shall pay all and any costs and expenses of Kay-Dee incurred as a result. The Customer shall be obliged to pay for the Products as if delivery had not been postponed.

7. PRICE AND PAYMENT 7.1 The price of the Products shall be as quoted to the Customer at the date of the acceptance of the order. 7.2 Except as otherwise stated, prices are ex-works, and the Customer shall be liable to pay Kay-Dee's charges (if any) for transport, packaging and insurance. 7.3 Kay-Dee may increase its prices in relation to the Products which Kay-Dee has agreed to supply where the increase is to take account of increases in costs, expenses and/or materials suffered by Kay-Dee. 7.4 Kay-Dee will inform the Customer in writing of any price increases not less than 30 days before such increase takes effect. 7.5 The Customer may cancel without Liability any Contract in relation to which the price is to be increased provided that the notice of cancellation is received by Kay-Dee before the price increase becomes effective. 7.6 If the Customer does not cancel within the specified time period then the price increase shall take effect for the Products ordered by the Customer. 7.7 Prices are exclusive of VAT. 7.8 Terms of payment are net cash or cleared funds within 30 days from the last working day of the month in which the Products were delivered. Time for payment shall be of the essence. Payment shall not be deemed to have been made until the full amount outstanding is



received. 7.9 If the Customer fails to make any payment in full on the due date Kay-Dee may charge the Customer any reasonable additional administration costs and/or interest (both before and after judgment) on the amount unpaid at the rate of 4% above the base rate from time to time of Kay-Dee's bank, or the Statutory Rate under the Late Payment of Commercial Debts (Interest) Act 1998 (as amended) whichever is the higher. Such interest shall be compounded with monthly rests. 7.10 Any monies received by Kay-Dee from the Customer may be applied by Kay-Dee at its option against any additional administrative costs and/or interest charged prior to application against any principal sums due from the Customer against which it may be applied in any order. 7.11 Kay-Dee shall be entitled to invoice each delivery of Products separately. 7.12 The Customer shall pay all sums due under this Contract without any set-off, deduction, counterclaim and/or any other withholding of monies. 7.13 Kay-Dee shall be entitled to render an invoice to the Customer any time after the Products have been ordered. 7.14 If payment in full is not made to Kay-Dee when due then Kay-Dee may withhold or suspend future or current deliveries of the Products under any other agreement with the Customer.

8. CREDIT LIMIT 8.1 Kay-Dee may set a credit limit for the Customer and reserves the right to suspend, or withhold delivery or refuse to accept orders of Products if this would result in the Customer exceeding its credit limit or if the credit limit is already exceeded.

9. CANCELLATION 9.1 The Customer may cancel delivery of the Products at any time on condition that: 9.1.1 Kay-Dee shall have no Liability in relation to any Contract cancelled in accordance with this clause; and 9.1.2 the Customer shall pay Kay-Dee on a quantum meruit basis for any Products already made and/or any works in progress.

10. SPECIFICATION 10.1 Any specification supplied by Kay-Dee to the Customer shall only be approximate unless stated in the quotation or agreed in writing. 10.2 Where the Customer has not supplied Kay-Dee with its own specification, the Customer and Kay-Dee shall produce a Product Specification subject to Clause 4 above. 10.3 The Customer is responsible for checking the quotation and satisfying itself that any specification is accurate and adequate. 10.4 Kay-Dee shall have no Liability for errors in any specification or details supplied by the Customer who shall be solely responsible for their accuracy. 10.5 Details in brochures and price lists produced by Kay-Dee are a guide only of the Products. and the Customer confirms and agrees that it has not relied upon the details and information contained in Kay-Dee's brochure. 10.6 If Kay-Dee does make changes to the specification of the Products which have a material adverse effect then the Customer shall have the right to cancel the Contract without Liability.



11 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY 11.1 All intellectual property rights (whether registered or unregistered), whether existing now and/or in the future, together with the right to apply for protection of the same) in the Products shall be owned by the Customer absolutely. 11.2 The parties agree that they will keep confidential and not use except for purposes contemplated by this Contract all information relating to the Products which may be disclosed to either of them except where such information is public knowledge or it is required to be disclosed by law.

12. PROPERTY AND RISK 12.1 Risk in the Products shall pass to the Customer at the time of delivery. Delivery shall be deemed to occur: 12.1.1 at the time when the Products arrive at the place of delivery if Kay-Dee delivers the Products; or 12.1.2 when the Products leave Kay-Dee's premises if Kay-Dee arranges transport in accordance with a specific contractual obligation; or 12.1.3 after the expiration of 3 working days pursuant to clause 5.9. 12.2 Risk of damage to or loss of the Products shall pass to the Customer on despatch. 12.3 Kay-Dee shall retain title and ownership of the Products until it has received payment in full in cash or cleared funds of all sums due and/or owing for all Products supplied to the Customer by Kay-Dee under this Contract and any other agreement between Kay-Dee and the Customer.

12.4 Until payment in full of the price for all Products supplied to the Customer the Products shall be stored separately from any products or goods belonging to the Customer or any third party and must be clearly marked and identified as being Kay-Dee's property. The Customer agrees that Kay-Dee's employees and/or agents shall be entitled to enter the Customer's premises to check compliance with this clause. 12.5 Until title in the Products has passed to the Customer the Customer shall keep the Products insured for the price at which they were sold to the Customer against all normal risks and shall procure that Kay-Dee is named on such policy of insurance as loss payee. The Customer shall hold any proceeds of such policy of insurance in relation to the Products on trust for Kay-Dee upon receipt of the same. Any monies received from the Customer by Kay-Dee in accordance with this clause shall not discharge the Customer's liability to pay the price for the Product plus interest accrued in accordance with clause 7.9 but shall be set off against any such liability.



13. DEFAULT 13.1 If the Customer: 13.1.1 fails to make any payment to Kay-Dee when due; 13.1.2 breaches the terms of this Contract and, if the breach is capable of remedy, has not remedied the breach within 14 days of receiving notice to do so; 13.1.3 persistently breaches any one or more terms of this Contract; 13.1.4 pledges or charges any Products which remain the property of Kay-Dee, or ceases or threatens to cease to carry on business, or proposes to compound with its creditors, applies for an interim order under Section 252 Insolvency Act 1986 or has a Bankruptcy Petition presented against it, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver appointed over all or any of its assets, or takes or suffers any similar action in any jurisdiction; 13.1.5 exceeds the credit limit set by Kay-Dee; 13.1.6 appears to Kay-Dee due to the Customer's credit rating to be financially inadequate to meet its obligations under the Contract; and/or 13.1.7 appears reasonably to Kay-Dee to be about to suffer any of the above events; then Kay-Dee shall have the right, without prejudice to any other remedies, to exercise any or all of the rights set out in clause 13.2 below. 13.2 If any of the events set out in clause 13.1 above occurs then: 13.2.1 Kay-Dee may enter, without prior notice, any premises of the Customer (or premises of third parties with their consent) where Products owned by Kay-Dee may be and repossess and dispose of or sell any Products found which are owned by Kay-Dee so as to discharge any sums due to Kay-Dee under this Contract or any other agreement with the Customer; 13.2.2 Kay-Dee may require the Customer not to re-sell or part with the possession of any Products owned by Kay-Dee until the Customer has paid in full all sums due to Kay-Dee under this Contract or any other agreement with the Customer; 13.2.3 Kay-Dee may withhold delivery of any undelivered Products and stop any Products in transit; 13.2.4 Kay-Dee may cancel, terminate and/or suspend without Liability to the Customer any contract with the Customer; and/or 13.2.5 all monies owed by the Customer to Kay-Dee shall forthwith become due and payable. 13.3 Kay-Dee shall have a lien over all property or goods belonging to the Customer which may be in Kay-Dee's possession in respect of all sums due from the Customer to Kay-Dee. 13.4 Upon the termination of the Contract for any reason if any monies due to Kay-Dee from the Customer have not been paid within 14 days of such termination Kay-Dee may sell any property or goods over which it has a lien in accordance with clause 13.3 above (and the Customer agrees that Kay-Dee may give good title for such property and/or goods) and shall apply the proceeds of sale firstly in discharging any costs or expenses of sale, secondly in repaying any interest owed by the Customer to Kay-Dee, thirdly in payment of any principal sums owed to Kay-Dee and fourthly Kay-Dee shall account to the Customer for the remainder (if any).

14. GUARANTEE 14.1 The Products are not sold with any form of guarantee.



15. REPAIRS AND REPLACEMENTS 15.1 Kay-Dee will at its option either refund the price or repair, replace free of charge any defective Products where the defect is apparent on inspection provided that the defect is notified to Kay-Dee within 14 working days of delivery. 15.2 Any defective Products must where reasonable be returned to Kay-Dee for inspection of the raw materials used in the manufacture of the Products if so requested by Kay-Dee before Kay-Dee will have any Liability. If the Products shall prove to be defective then Kay-Dee shall reimburse the Customer for the cost of returning the defective Products and may at its sole discretion replace, repair free of charge, or refund the price of defective Products.

16. LIMITATIONS ON LIABILITY 16.1 Kay-Dee shall have no Liability for; 16.1.1 any defect in the Products caused or contributed to as a result of the Products being used for display or demonstration purposes or being handled by customers of the Customer; 16.1.2 any defect has been caused or contributed to by the Customer to the extent so contributed; 16.1.3 circumstances where the price for the Products has not been paid in full by the due date for payment; 16.1.4 any defect in the Products arising from any drawing, design or specification supplied by the Customer; 16.1.5 any faults arising after risk in the Products has passed caused by any subsequent mechanical, chemical, electrolytic or other damage; 16.1.6 any faults or defects caused by wilful damage, abnormal working conditions, failure to follow Kay-Dee's instructions, misuse, alteration or repair of Products without Kay-Dee's approval, improper maintenance or negligence on the part of the Customer or a third party; 16.1.7 additional damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective Products after a defect has become apparent or suspected or should reasonably have become apparent to the Customer; 16.1.8 circumstances to the extent that the Customer is covered by any policy of insurance and the Customer shall ensure that the Customer's insurers waive any and all rights of subrogation they may have against Kay-Dee; 16.1.9 any matters which are outside its reasonable control; 16.1.10 any consequential losses; 16.1.11 any loss of profits and/or damage to goodwill; 16.1.12 any economic and/or other similar losses; 16.1.13 any special damages and indirect losses; and/or 16.1.14 business interruption, loss of business, contracts, opportunity and/or production. 16.2 The Customer shall where reasonable give Kay-Dee a reasonable opportunity to remedy any matter for which Kay-Dee is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so Kay-Dee shall have no Liability to the Customer. 16.3 The Customer shall be under a duty to mitigate any loss, damage, costs or expenses that it may suffer (including by maintaining an adequate stock of Products). 16.4 Kay-Dee's total Liability to the Customer shall not exceed £10,000,000.00. To the extent that any Liability of Kay-Dee to the Customer would be met by any insurance of Kay-Dee then the Liability of Kay-Dee shall be extended to the extent that such Liability is met by such insurance. 16.5 Each of the limitations and/or exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of: 16.5.1 Liability for breach of contract; 16.5.2 Liability in tort (including negligence); 16.5.3 Liability for breach of statutory duty; and 16.5.4 Liability for breach of Common Law. Except clause



16.4 above which shall apply once only in respect of all the said types of Liability. 16.6 Nothing in this Contract shall exclude or limit the Liability of Kay-Dee for death or personal injury due to its negligence or any Liability which is due to Kay-Dee's fraud or any other liability which it is not permitted to exclude or limit as a matter of law. 16.7 All warranties, terms, conditions and duties implied by law relating to fitness, quality or adequacy are excluded to the fullest extent permitted by law. 16.8 Nothing in this Contract shall exclude or limit any statutory rights of the Customer which may not be excluded or limited due to the Customer acting as a consumer. Any provision which would be void under any consumer protection legislation or other legislation shall to that extent, have no force or effect. 16.9 The limitations in this Contract are necessary in order to allow Kay-Dee to provide the Products at its current prices. 16.10 If the Customer requires greater protection then Kay-Dee will agree to modify the limitations and extend its guarantees in return for the payment of a higher price for the Products.

17. GENERAL 17.1 The Customer agrees to indemnify and keep Kay-Dee indemnified against any and all losses, proceedings, lost profits, damages, awards, expenses, claims, costs (including increased administration costs and legal costs on a full indemnity basis), actions and any other losses and/or liabilities suffered by Kay-Dee and arising from or due to any breach of contract, any tortious act and/or omissions and/or any breach of statutory duty by the Customer and/or Kay-Dee's use of specifications, details and/or drawings supplied by the Customer. 17.2 No waiver by Kay-Dee of any breach of this Contract shall be considered as a waiver of any subsequent breach of the same provision or any other provision. 17.3 If any provision of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Contract and the remainder of the affected provision shall be unaffected and shall remain in full force and effect. 17.4 Kay-Dee shall have no Liability to the Customer for any delay in performance of this Contract (other than in relation to payment) to the extent that such delay is due to any events of Force Majeure. If Kay-Dee is affected by any such event then time for performance shall be extended for a period equal to the period that such event or events delayed such performance. 17.5 The Customer shall not assign its interest in the Contract (or any part) without the written consent of Kay-Dee. 17.6 All third party rights are excluded and no third party shall have any right to enforce this Contract. This shall not apply to members of Kay-Dee's group from time to time who shall, subject to Kay-Dee's consent, have the right to enforce this Contract as if they were Kay-Dee. 17.7 This Contract is governed by and interpreted in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English courts. 17.8 Any dispute arising out of or in connection with the Contract shall be referred to the arbitration in London of a single arbitrator appointed by agreement between the parties or, in default of agreement, nominated on the application of either party by the President for the time being of The Law Society. This Agreement shall be governed by and construed in all respects in accordance with the Laws of England. This shall not prevent either party seeking interim injunctive relief from a court of law.